

Insuring Volunteers

This brief from the Nonprofit Risk Management Center focuses on insuring volunteers against accidents and injuries.

Metaphorically, volunteers are the lubrication that keeps the wheels of the nonprofit sector rolling. Given the millions of volunteers and the thousands of different roles they play, it is inevitable that on occasion, a volunteer will be injured while serving a nonprofit organization. Whether the nonprofit can be held liable for the injury is related to a number of factors that include:

- * **Age of the volunteer.** If the volunteer is younger than 18 years of age, the organization generally assumes some responsibility for the welfare of the volunteer, unless a specific release of liability has been signed by the volunteer's parents, legal representative, or another organization. The execution of a legally enforceable release does not, however, preclude a suit by the minor or by the parent in the name of the minor.
- * **Representations made to the volunteer when he or she was recruited.** Organizations should inform volunteers about any provision the organization has made for handling injuries. If the organization expects that volunteers will be responsible if they are injured while performing volunteer service, that expectation should be clearly conveyed to the volunteer from the outset. Many organizations require that volunteers sign an agreement that transfers to the volunteer responsibility for any injuries incurred in the course of a volunteer's duties. Such agreements must clearly and unambiguously explain the nature of the risks being assumed by the volunteer and in any case will be closely scrutinized by the courts. Moreover, it is highly unlikely that responsibility for injuries relating to the gross negligence or intentional wrongdoing of the organization can be transferred to the volunteer by mutual agreement.
- * **Degree of control exercised by the organization over the volunteer.** In a recent legal case involving a church group performing repairs to a summer camp, the court found that the camp was not responsible for injuries to a volunteer who was working on a bridge because the volunteer, not the camp, selected the specific project. Control of volunteers can be a two edged sword, however. While exercising little or no control over a volunteer may reduce the likelihood of a successful claim by a volunteer, it may actually increase the risk of a claim by a third party who is injured from the volunteer's actions.
- * **Circumstances of the particular accident.** Underlying all action is the duty to act reasonably and prudently, a duty that is created as soon as some action is initiated. If an organization provides equipment, there is a duty to take reasonable steps to provide equipment that is sound. In addition, there may well be duties to train the volunteer in how to use the equipment because misuse may be foreseeable. For example, if a volunteer was using a step-ladder belonging to the organization and the ladder cannot be extended to the last rung, or placed at too flat an angle, a volunteer without experience should receive instruction in its proper use.
- * **If the volunteer was injured while volunteering for a project sponsored by his or her employer.** Corporate volunteerism is growing and the growth of these programs has been accompanied by increasing awareness of the need to clearly identify the relationship of the volunteer role to the individual's employment status. The more closely a corporate volunteer's activities are connected to his or her employment status, the more likely the employer will be held liable for the volunteer's injuries.

Insuring Volunteers Against Accidents or Injuries

There are two primary options that an organization should consider if it wants to insure volunteers against the possibility of physical harm incurred in the course of volunteer service on behalf of the organization: a volunteer accident-injury policy or workers' compensation coverage. Each of these options is discussed below.

Accident and Injury Policies. Accident and injury coverage for volunteers finances the cost of medical treatment for volunteers who are injured while delivering services for the organization. These policies usually pay the costs of emergency room services and follow-up treatment to pre-determined limits based upon the kind of injury. For example, a broken leg may have a limit of \$2,500, while an eye injury might be limited to \$1,500 unless the injury resulted in the loss of sight in the eye, in which case the limit may be \$15,000 (these amounts are hypothetical and intended for illustrative purposes only). Usually these policies do not have deductibles. Note: an accident and injury policy for volunteers does not respond to illness nor does it protect the organization from liability for the injury.

One distinctive feature of an accident and injury policy is that it will pay a claim regardless of who is at fault. These policies are often excess insurance, meaning that they pay only after other available insurance - generally the volunteer's personal health insurance - is exhausted. If the volunteer is uninsured, the accident and injury policy would "drop down" and become primary coverage for the injury.

Workers' Compensation (WC). Some states permit the inclusion of volunteers in a nonprofit's workers' compensation program. On the surface, this appears to be an easy answer to the dilemma of providing a source of recovery for injured volunteers. Organizations are required to carry this coverage for their employees and it may be administratively less cumbersome to simply add volunteers to an existing policy.

WC policies may not, however, be the most effective way for a nonprofit to protect its volunteers. WC for employees include a number of benefits for which volunteers would not be eligible - reimbursement for lost wages, for example. In addition, WC premiums are based on the type of work performed and not the amount of time spent on the job. For example, the cost of insuring a patrol officer may be comparable to the cost of insuring a part-time police department volunteer who patrols a community as part of a crime deterrence effort. In addition, actual losses under workers' compensation policies can dramatically affect future premiums. With a large volunteer workforce, accidents may occur and drive up per-person costs to a substantial degree.

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